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19
20 UNITED STATES DISTRICT COURT
21
22 NORTHERN DISTRICT OF CALIFORNIA

23
24 ACTIAN CORPORATION

25 Case No. 3:23-cv-05815-WHO

26 Plaintiff,

27
28 **ACTIAN CORPORATION'S ANSWER
TO MIRION TECHNOLOGIES
(CANBERRA), INC.'S COUNTERCLAIMS**

v.

29
30 MIRION TECHNOLOGIES (CANBERRA),
31 INC.

32
33 Defendant.

34
35 MIRION TECHNOLOGIES (CANBERRA),
36 INC.

37
38 Counterclaim Plaintiff,

v.

40
41 ACTIAN CORPORATION

42
43 Counterclaim Defendant.

1 Plaintiff, Actian Corporation (“Plaintiff” or “Actian”) hereby files this Answer to
2 Defendant Mirion Technologies (Canberra), Inc’s (“Mirion” or “Defendant”) Counterclaims.

3 1. Actian lacks knowledge and information regarding the allegations in Paragraph 1
4 of the Counterclaims, and on that basis denies them.

5 2. Actian admits that Actian is a successor in interest to Computer Associates
6 International, Inc., which is a successor to Ingres Corporation and Relational Technology, Inc.

7 3. Actian lacks knowledge or information sufficient to form a belief as to the truth of
8 the allegations in Paragraph 3 and on that basis denies them.

9 4. Actian lacks knowledge or information sufficient to form a belief as to the truth of
10 the allegations in Paragraph 4 and on that basis denies them.

11 5. Actian lacks knowledge or information sufficient to form a belief as to the truth of
12 the allegations in Paragraph 5 and on that basis denies them.

13 6. Actian lacks knowledge or information sufficient to form a belief as to the truth of
14 the allegations in Paragraph 6 and on that basis denies them.

15 7. Actian lacks knowledge or information sufficient to form a belief as to the truth
16 regarding whether Mirion’s software use rights under various license agreements entered into
17 with Actian and its predecessor companies over the course of more than 30 years and the PADS
18 software for safety of workers at nuclear utility power companies is under threat, and on that
19 basis, denies this allegation. Actian admits that Mirion over-deployed Ingres. Actian denies the
20 remaining allegations in Paragraph 7.

21 8. Actian admits that it has the right to conduct legitimate audits of its customers to
22 protect its intellectual property. Actian denies the remaining allegations in Paragraph 8.

23 9. Actian admits that Actian was acquired by HCL Technologies, and has been
24 involved in lawsuits in this District and others. Actian denies the remaining allegations in
25 Paragraph 9.

PARTIES

10. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 and on that basis denies them.

11. Actian admits the allegations in Paragraph 11.

JURISDICTION AND VENUE

12. Actian admits that this Court over this action has subject matter jurisdiction over this counterclaim pursuant to 28 U.S.C. § 1367, and that the Court has jurisdiction under 28 U.S.C. § 1331.

13. Actian admits that the Court has personal jurisdiction over Actian.

14. Actian admits that the venue is proper in the U.S. District Court for the Northern District of California pursuant to 28. U.S.C. § 1991.

FACTUAL BACKGROUND

15. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and on that basis denies them.

16. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 and on that basis denies them.

17. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 and on that basis denies them.

18. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding whether over the course of several years, as more utilities adopted the PADS system, Canberra increased the number of OpenROAD Runtime Client licenses from 35 to 50, to account for the greater usage by more nuclear power utility companies, and whether Mirion and its predecessor increased the perpetual licenses for Ingres to 35, and on that basis denies them. Actian denies the remaining allegations in Paragraph 18.

19. Actian lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 and on that basis denies them.

1 20. Actian denies that it acted in a way consistent with a belief that Mirion was
2 permitted to distribute OpenROAD as part of PADS. Actian lacks knowledge or information
3 sufficient to form a belief as to the truth of the allegations in Paragraph 20 and on that basis
4 denies them.

5 21. Actian lacks knowledge or information sufficient to form a belief as to the truth
6 of the allegations in Paragraph 21 and on that basis denies them.

7 22. Actian lacks knowledge or information sufficient to form a belief as to the truth
8 of the allegations in Paragraph 22 and on that basis denies them.

9 23. Actian lacks knowledge or information sufficient to form a belief as to the truth
10 of the allegations in Paragraph 23 and on that basis denies them.

11 24. Actian denies the allegations in Paragraph 24.

12 25. Actian denies that it has “feigned” any ignorance. Actian denies all other
13 allegations of Paragraph 25.

14 26. Actian admits that HCL Technologies acquired Actian and that Actian has filed
15 multiple lawsuits against customers. Actian denies all remaining allegations in Paragraph 26.

16 27. Actian lacks knowledge or information sufficient to form a belief as to the truth
17 of the allegations in Paragraph 27 and on that basis denies them.

18 28. Actian denies the allegations in Paragraph 28.

19 29. Actian admits that it submitted a PowerPoint presentation dated July 2023 titled
20 “Account Summary and Proposal.” The PowerPoint presentation and findings therein speak for
21 themselves. Actian respectfully refers the Court to the PowerPoint presentation for a complete
22 and accurate recitation of its contents, and denies Mirion’s allegations to the extent inconsistent
23 with that document. Actian preserves its right to exclude the PowerPoint presentation from
24 evidence, under Federal Rule of Evidence, 408. Actian denies all other allegations of Paragraph
25 29.

26 30. Actian denies the allegations in Paragraph 30.

27 31. Actian denies the allegations in Paragraph 31.

1 32. Actian admits that on or about September 11, 2023, Actian sent Mirion a letter.
2 The letter speaks for itself. Actian respectfully refers the Court to the letter for a complete and
3 accurate recitation of its contents, and denies Mirion's allegations to the extent inconsistent with
4 that document. Actian preserves its right to exclude the letter from evidence, under Federal Rule
5 of Evidence, 408. Actian denies all other allegations in Paragraph 32.

6 || 33. Actian denies the allegations in Paragraph 33.

7 ||| 34. Actian denies the allegations in Paragraph 34.

COUNT ONE

(Declaratory Relief)

10 35. No response is required to Paragraph 35 of the Counterclaim. To the extent a
11 response is required, Actian restates and incorporates by reference its responses to the foregoing
12 paragraphs.

13 36. Actian filed a Complaint, which speaks for itself. Actian respectfully refers the
14 Court to the Complaint for a complete and accurate recitation of its contents, and denies
15 Mirion's allegations to the extent inconsistent with that document. Actian denies all other
16 allegations in Paragraph 36.

17 || 37. Actian denies the allegations in Paragraph 37.

18 || 38. Actian denies the allegations in Paragraph 38.

COUNT TWO

(Breach of the Implied Covenant of Good Faith and Fair Dealing)

21 39. No response is required to Paragraph 39 of the Counterclaim. To the extent a
22 response is required, Actian restates and incorporates by reference its responses to the foregoing
23 paragraphs.

24 40. Actian admits that Mirion and Actian entered into the CLA and OEM
25 Agreements. Actian lacks knowledge and information regarding the “ISV Agreement” and
26 “Order 811851,” and on that basis denies that it entered into those agreements. The parties’
27 agreements speak for themselves. Actian respectfully refers the Court to the agreements for a

1 complete and accurate recitation of their contents, and denies Mirion's allegations to the extent
 2 inconsistent with those documents. All other allegations in Paragraph 40 are denied.

- 3 41. Actian denies the allegations in Paragraph 41.
- 4 42. Actian denies the allegations in Paragraph 42.
- 5 43. Actian denies the allegations in Paragraph 43.
- 6 44. Actian denies the allegations in Paragraph 44.

7 **COUNT THREE**

8 **(Violation Of California Business & Professions Code § 17200, et seq.)**

- 9 45. Actian lacks knowledge and information regarding the allegations in Paragraph
 10 45 of the Counterclaims, and on that basis denies them.
- 11 46. Actian denies the allegations in Paragraph 46, including sub-paragraphs (a), (b),
 12 and (c).

- 13 47. Actian denies the allegations in Paragraph 47.

14 Actian denies that Mirion is entitled to any of the relief sought.

15 **STATEMENT OF AFFIRMATIVE DEFENSES**

16 Without assuming any burden of proof that it would not otherwise bear, Actian asserts
 17 the following defenses. Actian reserves the right to assert further defenses that may be identified
 18 the course of further investigation, discovery, or litigation of this action.

19 **FIRST DEFENSE – FAILURE TO STATE A CLAIM**

20 The Counterclaim fails to state a claim upon which relief can be granted.

21 **SECOND DEFENSE – UNCLEAN HANDS**

22 Mirion's claims are barred by unclean hands.

23 **THIRD DEFENSE – WAIVER**

24 Mirion's claims are barred by the doctrine of waiver.

25 **FOURTH DEFENSE – EQUITABLE ESTOPPEL**

26 Mirion's claims are barred by equitable estoppel.

FIFTH DEFENSE

1 Mirion claims should be denied because it has not suffered any damages.

SIXTH DEFENSE

4 Mirion's damages, to the extent it has suffered any, should be barred or reduced in
5 accordance with the doctrines of comparative or contributory negligence or fault.

EIGHTH DEFENSE

7 Mirion's claims are barred, in whole or in part, as a result of Mirion's failure to mitigate
8 damages.

NINTH DEFENSE

10 To the extent that Mirion seeks to sanction or restrain conduct by Actian that is
11 comprised of protected speech, such as commercial speech, the First Amendment of the United
12 States Constitution bars all relief that Mirion seeks to abridge Actian's right to engage in that
13 protected speech.

PRAAYER FOR RELIEF

15 Wherefore, in consideration of the foregoing, Actian prays for judgment against Mirion
16 Technologies, Inc. as follows:

- 17 1. That the Court enter judgment in favor of Actian on all claims asserted by Mirion,
18 holding that Mirion take nothing by reason of Mirion's counterclaims or any other
19 claim that may be asserted by Mirion in this action;
- 20 2. That Actian be awarded its attorneys' fees and costs of suit herein; and
- 21 3. Award Actian any and all other relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

23 Actian demands a jury trial on each claim on which it is entitled to a jury trial.

24 Dated: February 20, 2024

25 By: /s/ Ryan E. Hatch

26 Ryan E. Hatch

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8 *Attorneys for Plaintiff Actian Corporation*

9 **CERTIFICATE OF SERVICE**

10 The undersigned counsel hereby certifies that on February 20, 2024 a true and correct
11 copy of the foregoing document was electronically filed via the Court's CM/ECF system, which
12 will send a notification of electric filing to all counsel of record who have appeared in this case.

13 */s/Ryan E. Hatch*
14 Ryan E. Hatch